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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,354	06/30/2003	Guy Ronald Kozubski		8214

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EXAMINER

STERLING, AMY JO

ART UNIT PAPER NUMBER

3632

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/609,354

Applicant(s)

KOZUBSKI, GUY RONALD

Examiner

Amy J. Sterling

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This is the first Office Action for application number 10/609,354, Outboard Motor Lift, filed on 6/30/03. Claims 1-10 are pending.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "detent (78)" of page 14, line 10 of the specification and "ratchet (76)" of page 14, line 12 of the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the

page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 2 is objected to because of the following informalities: "rachet" should be corrected to "ratchet". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 2, 3, 9 and 10 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. Critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). The term ratchet is not adequately described in the specification in that there is no indication on how it is attached to the device. The term "block" is not mentioned or adequately described in the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 cites two "bracket assemblies" one in line 9 and one in line 11 and it is unclear if they are the same element or a separate element. They should be distinguished by having a modifier attached to them, such as a "first bracket assembly" or a "plate bracket assembly".

Claim 1 also recites the limitation "the transom and the boat" in line 4. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-9 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 4013249 to Meyer et al.

The patent to Meyer et al. discloses an outboard motor lift assembly having a plate (21) secured to a transom of a boat, a pair of upper (25) and lower links (27), the links being tied together by an upper (37) and lower (31) crossbar respectively, a

bracket assembly (43) on the plate, the upper and lower links being secured in the bracket assembly, a motor mount being connected by the links, the motor mount having a bracket assembly (23, 45) thereon, the other end of the upper and lower links being rotatably mounted in motor mount bracket assembly, a manual lift assembly, including a lift bar (51) disposed in contact with the lower links, the lift bar connected to a handle (89) and a ratchet (53, 55) for selective positioning of the motor, and a spring (75) being tensioned between the plate and the lower links.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 4013249 to Meyer et al. as applied to claims 1 and 6 above, and in view of United States Patent No. 4911395 to Jones, Jr.

Meyer et al. discloses applicant's basic inventive concept, all the elements which are shown above with the exception that it does not show a block on the plate.

Jones, Jr. teaches a block (28) which can be used for placement on the motor mount for reducing stress due to vibration during transportation of the motor. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Jones, Jr. to have added a block to the

device as taught by Meyer et al. in order to reduce stress on the motor due to vibration during transportation of the device.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following documents show various outboard motor holders

6652335 to Peschmann et a.

5855496 to Lokken

5799925 to Kumita et al.

5522578 to Mayfield

5382183 to Rompre

5188549 to Koubski

4624438 to Goodman, Jr.

4306703 to Finze

5669794 to Knight et al.

4872859 to Griffiths et al.

4836811 to Griffiths et al.

4813897 to Nwman et al.

4367860 to Strang

3948472 to Metcalf

3032304 to Machlan

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 703-308-3271. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine number for the Technology center is 703-872-9306 (formal amendments) or 703-308-3519 (informal amendments/communications).

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 703-308-2168.



AJS
Amy J. Sterling
8/30/04



ANITA KING
PRIMARY EXAMINER